

E2SHB 1688 - S COMM AMD  
By Committee on Ways & Means

ADOPTED 04/07/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Since the enactment of health planning and development  
5 legislation in 1979, the widespread adoption of new health care  
6 technologies has resulted in significant advancements in the diagnosis  
7 and treatment of disease, and has enabled substantial expansion of  
8 sites where complex care and surgery can be performed;

9 (2) New and existing technologies, supply sensitive health  
10 services, and demographics have a substantial effect on health care  
11 expenditures. Yet, evidence related to their effectiveness is not  
12 routinely or systematically considered in decision making regarding  
13 widespread adoption of these technologies and services. The principles  
14 of evidence-based medicine call for comprehensive review of data and  
15 studies related to a particular health care service or device, with  
16 emphasis given to high quality, objective studies. Findings regarding  
17 the effectiveness of these health services or devices should then be  
18 applied to increase the likelihood that they will be used  
19 appropriately;

20 (3) The standards governing whether a certificate of need should be  
21 granted in RCW 70.38.115 focus largely on broad concepts of access to  
22 and availability of health services, with only limited consideration of  
23 cost-effectiveness. Moreover, the standards do not provide explicit  
24 guidance for decision making or evaluating competing certificate of  
25 need applications; and

26 (4) The certificate of need statute plays a vital role and should  
27 be reexamined and strengthened to reflect changes in health care  
28 delivery and financing since its enactment.

1        NEW SECTION.    **Sec. 2.**    (1) A task force is created to study and  
2        prepare recommendations to the governor and the legislature related to  
3        improving and updating the certificate of need program in chapter 70.38  
4        RCW.    The report must be submitted to the governor and appropriate  
5        committees of the legislature by November 1, 2006.

6        (2) Members of the task force must be appointed by the governor.  
7        The task force members shall elect a member of the task force to serve  
8        as chair.    Members of the task force include:

9        (a) Four representatives of the legislature, including one member  
10        appointed by each caucus of the house of representatives and the  
11        senate;

12        (b) Two representatives of private employer-sponsored health  
13        benefits purchasers;

14        (c) One representative of labor organizations that purchase health  
15        benefits through Taft-Hartley plans;

16        (d) One representative of health carriers;

17        (e) Two representatives of health care consumers;

18        (f) One health care economist;

19        (g) The secretary of the department of social and health services,  
20        or his or her designee;

21        (h) The administrator of the health care authority, or his or her  
22        designee;

23        (i) The secretary of the department of health; and

24        (j) Two health care provider representatives, chosen by the members  
25        of the technical advisory committee established in subsection (3) of  
26        this section, from among the members of that committee.

27        (3) The task force shall establish one or more technical advisory  
28        committees composed of affected health care providers and other  
29        individuals or entities who can serve as a source of technical  
30        expertise.    The task force shall actively consult with, and solicit  
31        recommendations from, the technical advisory committee or committees  
32        regarding issues under consideration by the task force.

33        (4) Subject to the availability of amounts appropriated for this  
34        specific purpose, staff support for the task force shall be provided by  
35        the health care authority.    The health care authority shall contract  
36        for technical expertise necessary to complete the responsibilities of  
37        the task force.    Legislative members of the task force shall be  
38        reimbursed for travel expenses in accordance with RCW 44.04.120.

1 Nonlegislative members, except those representing an employer or  
2 organization, are entitled to be reimbursed for travel expenses in  
3 accordance with RCW 43.03.050.

4 NEW SECTION. **Sec. 3.** (1) In conducting the certificate of need  
5 study and preparing recommendations, the task force shall be guided by  
6 the following principles:

7 (a) The supply of a health service can have a substantial impact on  
8 utilization of the service, independent of the effectiveness, medical  
9 necessity, or appropriateness of the particular health service for a  
10 particular individual;

11 (b) Given that health care resources are not unlimited, the impact  
12 of any new health service or facility on overall health expenditures in  
13 the state must be considered;

14 (c) Given our increasing ability to undertake technology assessment  
15 and measure the quality and outcomes of health services, the likelihood  
16 that a requested new health facility, service, or equipment will  
17 improve health care quality and outcomes must be considered; and

18 (d) It is generally presumed that the services and facilities  
19 currently subject to certificate of need should remain subject to those  
20 requirements.

21 (2) The task force shall, at a minimum, examine and develop  
22 recommendations related to the following issues:

23 (a) The need for a new and regularly updated set of service and  
24 facility specific policies that guide certificate of need decisions;

25 (b) A review of the purpose and goals of the current certificate of  
26 need program, including the relationship between the supply of health  
27 services and health care outcomes and expenditures in Washington state;

28 (c) The scope of facilities, services, and capital expenditures  
29 that should be subject to certificate of need review, including  
30 consideration of the following:

31 (i) Acquisitions of major medical equipment, meaning a single unit  
32 of medical equipment or a single system of components with related  
33 functions used to provide medical and other health services;

34 (ii) Major capital expenditures. Capital expenditures for  
35 information technology needed to support electronic health records  
36 should be encouraged;

1 (iii) The offering or development of any new health services, as  
2 defined in RCW 70.38.025, that meets any of the following:

3 (A) The obligation of substantial capital expenditures by or on  
4 behalf of a health care facility that is associated with the addition  
5 of a health service that was not offered on a regular basis by or on  
6 behalf of the health care facility within the twelve-month period prior  
7 to the time the services would be offered;

8 (B) The addition of equipment or services, by transfer of  
9 ownership, acquisition by lease, donation, transfer, or acquisition of  
10 control, through management agreement or otherwise, that was not  
11 offered on a regular basis by or on behalf of the health care facility  
12 or the private office of a licensed health care provider regulated  
13 under Title 18 RCW or chapter 70.127 RCW within the twelve-month period  
14 prior to the time the services would be offered and that for the third  
15 fiscal year of operation, including a partial first year following  
16 acquisition of that equipment or service, is projected to entail  
17 substantial incremental operating costs or annual gross revenue  
18 directly attributable to that health service;

19 (iv) The scope of health care facilities subject to certificate of  
20 need requirements, to include consideration of hospitals, including  
21 specialty hospitals, psychiatric hospitals, nursing facilities, kidney  
22 disease treatment centers including freestanding hemodialysis  
23 facilities, rehabilitation facilities, ambulatory surgical facilities,  
24 freestanding emergency rooms or urgent care facilities, home health  
25 agencies, hospice agencies and hospice care centers, freestanding  
26 radiological service centers, freestanding cardiac catheterization  
27 centers, or cancer treatment centers. "Health care facility" includes  
28 the office of a private health care practitioner in which surgical  
29 procedures are performed;

30 (d) The criteria for review of certificate of need applications, as  
31 currently defined in RCW 70.38.115, with the goal of having criteria  
32 that are consistent, clear, technically sound, and reflect state law,  
33 including consideration of:

34 (i) Public need for the proposed services as demonstrated by  
35 certain factors, including, but not limited to:

36 (A) Whether, and the extent to which, the project will  
37 substantially address specific health problems as measured by health  
38 needs in the area to be served by the project;

1 (B) Whether the project will have a positive impact on the health  
2 status indicators of the population to be served;

3 (C) Whether there is a substantial risk that the project would  
4 result in inappropriate increases in service utilization or the cost of  
5 health services;

6 (D) Whether the services affected by the project will be accessible  
7 to all residents of the area proposed to be served; and

8 (E) Whether the project will provide demonstrable improvements in  
9 quality and outcome measures applicable to the services proposed in the  
10 project, including whether there is data to indicate that the proposed  
11 health services would constitute innovations in high quality health  
12 care delivery;

13 (ii) Impact of the proposed services on the orderly and economic  
14 development of health facilities and health resources for the state as  
15 demonstrated by:

16 (A) The impact of the project on total health care expenditures  
17 after taking into account, to the extent practical, both the costs and  
18 benefits of the project and the competing demands in the local service  
19 area and statewide for available resources for health care;

20 (B) The impact of the project on the ability of existing affected  
21 providers and facilities to continue to serve uninsured or underinsured  
22 residents of the community and meet demands for emergency care;

23 (C) The availability of state funds to cover any increase in state  
24 costs associated with utilization of the project's services; and

25 (D) The likelihood that more effective, more accessible, or less  
26 costly alternative technologies or methods of service delivery may  
27 become available;

28 (e) The timeliness and consistency of certificate of need reviews  
29 and decisions, the sufficiency and use of resources available to the  
30 department of health to conduct timely reviews, the means by which the  
31 department of health projects future need for services, the ability to  
32 reflect differences among communities and approaches to providing  
33 services, and clarification on the use of the concurrent review  
34 process; and

35 (f) Mechanisms to monitor ongoing compliance with the assumptions  
36 made by facilities that have received either a certificate of need or  
37 an exemption to a certificate of need, including those related to

1 volume, the provision of charity care, and access to health services to  
2 medicaid and medicare beneficiaries as well as underinsured and  
3 uninsured members of the community.

4 (3) In developing its recommendations, the task force shall  
5 consider the results of a performance audit of the department of health  
6 regarding its administration and implementation of the certificate of  
7 need program. The audit shall be conducted by the joint legislative  
8 audit and review committee, and be completed by July 1, 2006.

9 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this  
10 act, referencing this act by bill or chapter number, is not provided by  
11 June 30, 2005, in the omnibus appropriations act, this act is null and  
12 void."

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13 On page 1, line 2 of the title, after "issues;" strike the  
14 remainder of the title and insert "and creating new sections."

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